

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT PARKER, JR.,

Plaintiff,

vs.

Case No. 05-CV-72797
HON. GEORGE CARAM STEEH

MICHAEL COX, et al.,

Defendants.

ORDER DENYING AS MOOT PLAINTIFF'S COMBINED MOTIONS TO WITHDRAW
PETITION FOR HABEAS RELIEF AND STAY JURY TRIAL (#11),
AND DISMISSING CIVIL CLAIMS FOR RELIEF ON FAILURE TO SHOW CAUSE

Plaintiff Robert Parker, Jr., appearing pro per, filed a petition for habeas corpus relief in this court on July 18, 2005 seeking to stay his criminal prosecution in Michigan's Genesee Circuit Court on a felony charge of failure to pay child support in violation of M.C.L. § 750.165. On September 14, 2005, this court issued an Opinion and Order granting defendants Michigan Attorney General Michael Cox's and the State of Michigan's motion to dismiss plaintiff's habeas corpus petition under the Younger abstention doctrine¹. In addition to dismissing plaintiff's habeas corpus petition, the court also ordered plaintiff to show cause in a writing not to exceed ten pages filed with the court on or before September 30, 2005 why his federal civil claims for relief alleged in a separate July 15, 2005 complaint should not be dismissed under the Younger abstention doctrine. September 14, 2005 Opinion and Order, at 4-5. Plaintiff was also forewarned that: "Failure to timely show cause as ordered will result in dismissal of plaintiff's claims for relief as set forth in the July 15, 2005 complaint." On September 16, 2005, plaintiff filed a one-page combined motion to withdraw his petition for habeas relief and motion to stay jury trial "until

¹ Younger v. Harris, 401 U.S. 37 (1971).

the appellate processes in the State court matter have been exhausted." September 16, 2005 Motion. Attached to plaintiff's combined motions is plaintiff's September 15, 2005 declaration in which he declares he has entered a no-contest plea in the pending state criminal matter with "full reservation of appellate rights" Plaintiff's September 15, 2005 Declaration, at 1.

Plaintiff's instant September 16, 2005 motion to withdraw his petition for habeas relief is moot by operation of the court's September 14, 2005 Opinion and Order dismissing the petition. Plaintiff has not filed a timely response to the court's September 14, 2004 show cause order, and accordingly, plaintiff's claims as set forth in his separate July 15, 2005 complaint will be dismissed for failure to show cause as ordered. Plaintiff's September 16, 2005 motion to stay jury trial is rendered by operation of the dismissal of his claims for failure to show cause. Accordingly,

Plaintiff Robert Parker's motion to withdraw petition and motion to stay jury trial are hereby DENIED as MOOT. Plaintiff's civil claims for relief as set forth in a separate July 15, 2005 complaint are hereby DISMISSED, without prejudice, for failure to show cause as required under the court's September 14, 2005 Opinion and Order. Plaintiff's claims are hereby DISMISSED, without prejudice, in their entirety.

SO ORDERED.

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: October 4, 2005

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on October 4, 2005, by electronic and/or ordinary mail.

s/Josephine Chaffee
Secretary/Deputy Clerk